IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 20TH OCTOBER 2006 / 28TH ASWINA 1928

MFA.No. 1519 of 1996(C)

OPMV.826/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TRIVANDRUM
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APPELLANT:

K.KRISHNANKUTTY NAIR
S/O. NEELAKANTA PILLAI
MANNAMVILA PUTHEN VEEDU
NEAR KULAKKUDIYOORKKONAM ELA
UPANIYOOR DESOM, NEMOM VILLAGE
NEMOM P.O., THIRUVANANTHAPURAM

BY ADV. SRI.V.N.ACHUTHA KURUP
SRI.B.S.SWATHY KUMAR

RESPONDENTS:
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1. THE DISTRICT SUPERINTENDENT OF POLICE (RURAL)
KOWDIAR, THIRUVANANTHAPURAM

2. MR.M.VIJAYAKUMAR, S/O. RAGHAVAN
PANTHAPLAVILA VEEDU
VAZHUTHOOR, NEYYATTINKARA

3. THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVT. SECRETARIAT, THIRUVANANTHAPURAM

BY GOVERNMENT PLEADER for R1, R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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M.F.A. No. 1519 of 1996C
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Dated this the 20th day of October, 2006

JUDGMENT

The claimant is the appellant. The Tribunal awarded compensation towards pain and sufferings, extra nourishment, treatment etc.

2. One of the crucial issues that arises for decision is as to whether the Tribunal was justified in refusing compensation for the alleged permanent disability. The Tribunal noticed that the doctor who issued Ext. A5 certificate was not examined and that Ext. A5 disability certificate was issued by a doctor who going by the claim petition, is not one among those who treated him. Ext. A5 does not show that it was issued after considering the case of the claimant by perusing the earlier document relating to treatment. Ext. A4 wound certificate does not show any fracture. However, Ext. A5 disability certificate states that the claimant suffered fractures to the ribs, even without stating as to how many ribs were fractured. The Tribunal also noticed that Ext. A5 is not issued on a proper assessment of the case of the claimant because what was described as pain in the right shoulder and chest turned out to be contusion in the

right shoulder and chest. Eschewing Ext. A5, the Tribunal reasonably held that though in the disability certificate, Ext. A5 it is stated that there was collection in the pleural cavity due to the fracture, there was no material to hold so in the context of the absence of any such diagnosis in the earlier document. I say so because, the Tribunal was justified in taking the view that had it been a case of collection of fluid in the pleural cavity, that would have been a complicated situation of pneumothorax, which would have been reflected by the earlier documents.

Having regard to what is aforesaid, I am satisfied that the impugned award is just and reasonable. In the result, the appeal fails and the same is dismissed. No costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

csl